

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Joseph Sutton,

Petitioner,

v.

Case No. 13-14789

Kenneth Romanowski,

Sean F. Cox

United States District Court Judge

Respondent.

ORDER DENYING
MOTION TO DISQUALIFY JUDGE

Petitioner Joseph Sutton initiated this civil action on November 20, 2013, by filing a *pro se* Petition for Habeas Corpus, under 28 U.S.C. § 2254. Petitioner's underlying criminal conviction resulted from a jury trial in Wayne County Circuit Court, in Detroit, Michigan.

The matter is currently before the Court on Petitioner's Motion for Disqualification, filed on December 6, 2016. (Docket Entry No. 17). That motion asks the Court to disqualify itself from this case because the Court's brother was Attorney General for the State of Michigan at the time of his criminal trial. For the reasons that follow, the Court shall DENY the motion.

Petitioner's motion asks this Court to disqualify itself from hearing this case pursuant to 28 U.S.C. § 455(a), which provides that a district judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." "The statute requires a judge to recuse 'if a reasonable, objective person, knowing all of the circumstances, would have questioned the judge's impartiality.'" *Ragozzine v. Youngstown State Univ.*, 783 F.3d 1077, 1079 (6th Cir. 2015) (quoting *Hughes v. United States*, 899 F.2d 1495, 1501 (6th Cir. 1990)). This

standard is objective and is not based on the subjective view of a party. *Blackmon v. Eaton Corp.*, 587 F. A'ppx 925, 933 (6th Cir. 2014).

The undersigned's brother, Michael Cox, was the Attorney General for the State of Michigan from January 1, 2003, to January 1, 2011. But there is no indication in Petitioner's motion that Michael Cox had any personal involvement with respect to the underlying criminal case at issue here.

Having considered Petitioner's motion, the Court concludes that there is no basis for this Court to recuse itself in this case. The Court does not believe that its impartiality might reasonably be questioned because of the Court's brother having been the Attorney General for the State of Michigan during his jury trial in Wayne County Circuit Court.

A reasonable, objective person, knowing all of the circumstances, would not question this Court's impartiality in this case. And the undersigned is mindful that the Sixth Circuit has cautioned that "[t]here is as much an obligation upon a judge not to recuse himself when there is no occasion as there is for him to do so when there is." *Easley v. University of Michigan Bd. of Regents*, 853 F.2d 1351,1356 (6th Cir. 1988).

Accordingly, IT IS ORDERED that Petitioner's Motion to Disqualification (Docket Entry No. 17) is DENIED.

IT IS SO ORDERED.

Dated: February 16, 2017

s/Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on February 16, 2017, the foregoing document was served on counsel of

record via electronic means and upon Joseph Sutton via First Class mail at the address below:

Joseph Sutton 152743
ADRIAN CORRECTIONAL FACILITY
2727 BEECHER ROAD
ADRAIN, MI 49221

s/J. McCoy
Case Manager